

# ORIGINAL

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

JAMES S. COLEMAN,  
PETITIONER

v.

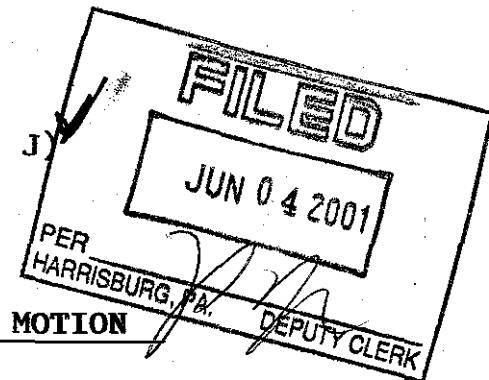
SUSAN GERLINSKI  
RESPONDENT

: CIVIL ACTION 1:01-0267

: (CALDWELL, J)

: ( MANNION, M. J)

:  
: RESPONSE TO RESPONDENT SHOW CAUSE MOTION



Petitioner had always been under the jurisdiction of the DISTRICT OF COLUMBIA penal and parole authority.

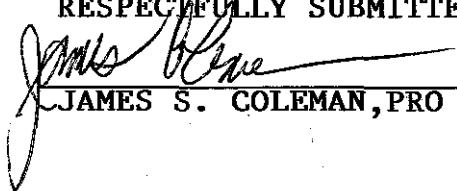
On April 28, 2000, petitioner was transferred to the custody of the Bureau of Prisons, in compliance with the Revitalization and Self Government Act of 1997. The Act gave the BOP authority in D.C. Code 24-1201. They abuse its' discretion when they recomputed petitioners' sentence, contrary to the plain language in D.C. Code 24-1201(b).

Petitioner was sentenced in 1981 and 1997. The D.C. DEPARTMENT OF CORRECTIONS, aggregated those sentences in 1997 (Ex. B. in petition) which gave him a short term and full term dates. The D.C. and U.S. Parole authorities made decisions on those dates which were legal accordingly to the wardens in the District of Columbia Prison systems (see attach Memos from Ms. Jackson and Poteat on computation).

The Respondent continue to mislead and they little comprehension of how D.C. Code offender are to be treated accordingly to the "Revitalization Act".

Petitioner pray that this honorable court grant his petition.

RESPECTFULLY SUBMITTED

  
JAMES S. COLEMAN, PRO SE



## MAXIMUM SECURITY FACILITY

Lorton, Virginia 22199

MEMORANDUM

TO: James Coleman  
DCDC 148161  
CB 7

FROM: Adrienne R. Poteat  
Warden

DATE: February 14, 2000

SUBJECT: Sentence Computation

This is in response to your memo dated February 9, 2000 concerning your sentence computation.

According to the Record Office Supervisor, your computation is legal. Your sentence computation was based upon D.C. Code 22-2601(b), "said sentence to begin, if the person is an escaped prisoner, upon the expiration of the original sentence." In other words it must be consecutive to the offense from which you escaped. The only way it could run concurrent is if you are not charged with escape and released, returned to custody on a new charge and then charged with prison breach. Prison breach has no statue of limitations. The Judge could then legally run your prison breach concurrent to the new charge, because you did not escape on the new charge.

As of this date the Record Office Supervisor has contacted the Felony Branch to have your Judgement and Commitment Order amended to reflect the correct terminology.

District of Columbia  
Department of Corrections  
IGP Form 1 (Rev. 10/92)

Third Copy: Return to Resident

Type or use ball-point pen.

Attach additional sheets, if necessary.

From:	Coleman	James	Samuel	148-161	14	Occ
	LAST NAME,	FIRST NAME,	MI.	DCDC NO.	CELL/BLOCK	INSTITUTION

**Part A - INMATE COMPLAINT:** Ms. Jackson, This is an complaint against the record office. They refuse to follow the Judgement and Commitment Order which is attach to this complaint.

The Judge was aware of how he sentence me and so was the U.S. Asst Attorney. Please tell me what gives the DCDC Record office the to commute my sentence any other way than how the court sentence me.

Remedy Sought:

Follow the Judgment and Commitment Order!

3-2-98

DATE

SIGNATURE OF RESIDENT

**Part B - RESPONSE BY INSTITUTION ADMINISTRATOR:**

SEE ATTACHED RESPONSE

3/1/98  
DATE

IGP NO.

SIGNATURE OF ADMINISTRATOR

See back for: 1. Appeal Procedure. 2. Institutions of filing emergency grievance of sensitive nature.

**Part C - RECEIPT**

Return to:	Coleman	James	148-161	14 Dorm	Cell
	LAST NAME,	FIRST NAME,	MI.	DCDC NO.	CELL/BLOCK NO. INSTITUTION

Subject:

3-2-98  
DATE

SIGNATURE OF RECIPIENT (STAFF MEMBER)

vs.

JAMES S. COLEMAN

JUDGMENT AND COMMITMENT/PROBATION ORDER

The above-named defendant having entered a plea of  Not Guilty  Guilty to the Charge(s) of 'B'  
PRISON BREACH.  
and having been found guilty by  Jury  Court, it is hereby ORDERED that the defendant has been convicted of and is guilty of the offense(s) charged, and is hereby SENTENCED to (6) TO (18) MONTHS  
CONCURRENT TO ANY OTHER SENTENCE IMPOSED.

- MANDATORY MINIMUM term of \_\_\_\_\_ applies to the sentence imposed.  
 MANDATORY MINIMUM term does not apply.  
 ORDERED that the defendant be committed to the custody of the Attorney General for imprisonment for the period imposed above.  
 ORDERED that the defendant be committed to the custody of the Attorney General for treatment and supervision provided by the D.C. Department of Corrections pursuant to Title 24, Section 803(b) of the D.C. Code [Youth Rehabilitation Act 1985].  
 ORDERED that the defendant be placed on probation in charge of the Director, Social Services Division, and it is further ORDERED that while on probation the defendant observe the following marked conditions of probation:  
 Observe the general conditions of probation listed on the back of this order.  
 Cooperate in seeking and accepting medical, psychological or psychiatric treatment in accordance with written notice from your Probation Officer.  
 Treatment for:  alcohol problems  drug dependency or abuse as follows:

Restitution of \$ \_\_\_\_\_ in monthly installments of \$ \_\_\_\_\_ beginning \_\_\_\_\_ (see reverse side for payment instructions). The Court will distribute monies to \_\_\_\_\_.

Costs in the aggregate amount of \$ 20 have been assessed under the Victims of Violent Crime Compensation Act of 1981, and  have  not been paid. Due \_\_\_\_\_

ORDERED that the Clerk deliver a true copy of this order to appropriate authority on \_\_\_\_\_ and that the copy shall serve as the commitment/order for the defendant.

8-13-97

Date

Certification by Clerk pursuant to Criminal Rule 32(d).

8-13-97

Date

Deputy Clerk

PSI WAIVED



OCCOQUAN FACILITY

Box 85

Lorton, Virginia 22199

March 6, 1998

MEMORANDUM

TO : James Coleman  
DCDC 148161  
14 Dormitory

FROM : Patricia Britton-Jackson  
Warden

SUBJECT: Inmate Grievance Response

This responds to your Inmate Grievance submitted by you on March 2, 1998, and received in my Office on March 3, 1998.

The Judge sentenced you illegally. Prison Breach must run consecutively by law to your previous imposed sentence. Your commitment order has been amended to read consecutively.

PBJ/sd

Washington, D.C. 20032

BOARD OF PAROLE

Office of the Administrator

92 OCT 22 AM 4:28

OCT 22, 1992  
(Date)

*Eason  
9-25-92*

MEMORANDUM

TO : The Record  
*CW/NB*

FROM : John W. Noble  
 Acting Administrator for  
 Community/Release Programs

SUBJECT : Case Disposition in Abstensia

RE : COLEMAN, JAMES  
 DCDC# 148161

COLEMAN, JAMES escaped from CCC#3 on SEPT 25, 1992.  
 The attached Final Progress Report will explain the apparent ramifications surrounding his escape and the status of his activities while at CCC#3.

As of this writing, Resident COLEMAN, JAMES is still at large; as a result of Community Correctional Centers' three-day escape policy (a resident who escapes and remains at large beyond three days will not be afforded a Review Hearing), Resident COLEMAN, JAMES will not be heard by CCCs Review Committee upon his apprehension or voluntary return to custody.

Submitted for the record.

Attachment:

cc: EDWARD PAYLOR, CCC CCC#3  
 Record Office



D.C. DEPARTMENT OF CORRECTIONS  
COMMUNITY / RELEASE PROGRAM—CCC#3  
1430 G ST. N.E.  
WASHINGTON, D.C. 20002

September 28, 1992

MEMORANDUM

TO : John W. Noble  
Acting Administrator  
for Community/Release Programs

FROM : James E. Murphy, Sr.  
Correctional Program Administrator  
for CCC # 3

SUBJECT : FINAL PROGRESS REPORT  
(THIRD POSITIVE URINALYSIS/ESCAPE)

REFERENCE: COLEMAN, JAMES  
DCDC: 148-161  
OFFENSE: DCPV  
SENTENCE: Owes 1,941 days on 18 years  
SENTENCED: 6-11-92  
FULL TERM: 9-17-96  
SHORT TERM: 4-26-95  
PAROLE ELIG.: 8-12-92

INTRODUCTION

Resident James Coleman, DCDC 148-161, is a forty-six (46) year old African American male offender. He was transferred to Community Correctional Center No. 3 on March 16, 1992 from the Medium Security Facility as a result of his being recommended for work release participation by the Institutional Classification Committee. On May 12, 1992 Resident Coleman appeared before the D.C. Board of Parole and was issued a ninety (90) day Continuance; pending completion and submittal of current Psychological Evaluation which was completed and forwarded to the Parole Board on September 14, 1992.

PROGRAM ADJUSTMENT

Upon Resident Coleman's arrival at CCC # 3 he was thoroughly orientated to the rules and regulations which govern the operations of this Center and his behavior during his stay here. He was supplied a copy of these rules and regulations which he signed acknowledging his understanding, acceptance and expected compliance. He was given another copy for future reference.

will be affected by Noble IV. Indeed, the D.C. Court of Appeals flagged the question "whether there should be any limitation on the class of prisoners the ruling should reach." Id., at 1104. As a matter of logic it is clear that those who are under federal supervision, as Noble was, had no reasonable expectations that they would be granted credit for street time and therefore are bound by Noble IV.

As to those who were under District supervision the issue is not so clear. It would seem that those inmates had the right to rely on the District's practice of granting credit for street time as pronounced in 28 D.C.M.R. § 601.7. There is nobody before the Court who has standing to litigate this issue. This is not a class action and the Court can rule only on issues that affect the parties before it. However, since the broader issue was fully briefed and argued, to assist the parties the Court did make clear at the December 9, 1998 hearing that in its opinion the District should not apply Noble IV retroactively to those who were under D.C. supervision from 1987 to April 23, 1998.<sup>3</sup> That group clearly has the right to rely on the District of Columbia's prior interpretation of its own laws. To prevent this Court from being swamped with petitions from those who fall in this group, the Court urges counsel for the District of Columbia to issue a release indicating that it would honor its past interpretation for the 1987 to April 23, 1998 period.

<sup>3</sup>In May 1998 the District of Columbia Department of Corrections issued a "Notice To All Inmate [sic]," stating, in part, that "[t]he Noble decision means that the Bureau of Prisons and the D.C. Department of Corrections are obligated to correct their erroneous sentence calculations by withdrawing credit for all times [sic] spent on parole. In the cases [sic] of any such inmate currently serving a sentence that includes an unexpired D.C. Code parole violation term, this recalculation will have the effect of establishing new full term and mandatory release dates for these inmates." See Ex. 1 to Respondent's Brief on Remand.



U.S. Department of Justice

United States Attorney

*BIGOL CASH*

*District of Columbia*

AUSA Lisa A. Hertz  
514-8750

Judiciary Center  
555 Fourth St. N.W.  
Washington, DC 20001

**FELONY DISCOVERY**

Date: March 25, 1997

Defendant: JAMES S. COLEMAN

Case: F-790-97

Charges: Prison Breach

Defense Counsel:

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**PLEA OFFER:** If the defendant pleads guilty to PRISON BREACH, the government will reserve stepback, waive any applicable enhancement papers, and reserve allocution. This offer expires on the date of the status hearing, or upon rearrest, whichever occurs sooner. If you believe there are special circumstances that should be discussed prior to the expiration of this plea offer, you may contact the Assistant U.S. Attorney at the above-listed number.

**STATEMENTS:** None of which the government is presently aware.

**PRIOR CONVICTIONS:** Housebreaking (1962, District of Columbia); Attempt Burglary (1991, District of Columbia); Assault With Intent to Rape (1981, District of Columbia); Rape and Assault (1965, District of Columbia)

**PENDING CASES:** None of which the government is aware.

**PHYSICAL EVIDENCE:** The following documentary evidence is attached:

- 1) D.C. Dept. of Corrections' Escape Report
- 2) Affidavit in Support of Arrest Warrant
- 3) Photocopy of Certified Copy of Conviction
- 4) United States Marshals Service Report of Investigation
- 5) D.C. Dept. of Corrections' Face Sheets #2
- 6) D.C. Dept. of Corrections' Mayor's Command Center Special Incident Report
- 7) D.C. MPD Wales Wanted Notice